

Filed 2/8/19 In re N.D. CA2/5

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re N.D., a Person Coming Under
the Juvenile Court Law.

B291478
(Los Angeles County
Super. Ct. No. DK15833A)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

J.C.,

Defendant and Appellant.

Appeal from an order of the Superior Court of Los
Angeles County, Kim Nguyen, Judge. Affirmed.

Leslie A. Barry, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, Tracey F. Dodds, Principal Deputy County Counsel, for Plaintiff and Respondent.

J.C. (mother) appeals from a July 6, 2018 order summarily denying her Welfare and Institutions Code section 388 petition¹ to change court orders. We dismiss the appeal as moot.

The factual and procedural history of this case are discussed in an earlier opinion, *J.C. v. Superior Court* (Jun. 25, 2018, B287276 [nonpub. opn.].) In that opinion, we denied mother's petition seeking extraordinary writ review of the dependency court's order setting a section 366.26 hearing, after the court terminated mother's reunification services. A few weeks later, mother filed her section 388 petition with the trial court, seeking an order returning her daughter, N.D. (minor) to her custody. The dependency court denied her petition without a hearing, and mother filed the current appeal.

On January 16, 2019, after briefing on mother's appeal

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated. Section 388 permits a parent, or the minor child through counsel, to petition the court for a hearing to change an earlier order in the dependency proceeding.

was complete, the dependency court granted a later section 388 petition filed by minor's counsel, and ordered minor placed with mother.² On January 24, 2019, we provided the parties an opportunity to address any reason why this court should not take judicial notice of the dependency court's January 16, 2019 order, and dismiss mother's appeal as moot. Neither party filed a response within the designated time period.

“An appeal becomes moot when, through no fault of the respondent, the occurrence of an event renders it impossible for the appellate court to grant the appellant effective relief. [Citation.]’ (*In re Esperanza C.* (2008) 165 Cal.App.4th 1042, 1054.)” (*In re Anna S.* (2010) 180 Cal.App.4th 1489, 1498.)

If mother were to prevail on appeal, the only relief available would be a hearing on her section 388 petition. When the dependency court placed minor with mother in January 2019 after an evidentiary hearing, it granted the relief mother sought in her earlier petition. Our decision would not affect the outcome in a subsequent proceeding; therefore, we cannot grant effective relief. Because the court has already held an evidentiary hearing on a different section 388 petition and placed minor with mother, she has

² On January 21, 2019, mother asked this court to take judicial notice of the dependency court's November 1, 2018 and January 16, 2019 orders. On February 6, 2019, under Evidence Code, sections 452, subdivision (d), and 459, we granted the request to take judicial notice of those orders.

already received more than the relief she sought on appeal. She no longer needs the change requested in her section 388 petition and no effective relief can be given on appeal. (*In re Anna S.*, *supra*, 180 Cal.App.4th at p. 1498; *In re Esperanza C.*, *supra*, 165 Cal.App.4th at p. 1054.)

DISPOSITION

The appeal is dismissed as moot.

MOOR, J.

We concur:

BAKER, Acting P.J.

KIM, J.